Braddell pointed out, a partnership firm has no existence in point of law though Taxation Ordinance and Rules of Court may endow it with a notional existence for certain limited purposes. The income of a partnership firm belongs, not to the firm, but to the partners who constitute it; and if they pay a sufficient sum by way of tax in India on that income, it seems to us that section 7 (b) provides that the same income on which they have paid such tax in India should not be taxed again here.

Perhaps it may be convenient to summarise our own view of section 7 (b) as follows:—It comes into operation whenever income, which arises in this Colony, pays income tax at not less than the prescribed rate in some other part of the British Empire. So long as the income which is in danger of being taxed twice over is the same income, then it does not seem to matter whether it is treated, in one place, as being the property of certain individuals, and in the other place as being the notional property of an association composed of those individuals. The object of section 7 (b) is to prevent the same income being taxed twice over, and that object should not be defeated by a surrender to fine distinctions which, though drawn by acute legal minds, make no difference in the affairs of men.

In the result this appeal is allowed, and the assessment to war tax contained in Assessment Notice No. 523 is hereby set aside.

Order Accordingly.

IN RE K. T. K. TANGAMANI.

[Orig. Civil Juris. (McElwaine, C.J.) August 28, 1941]

Advocates and Solicitors Ordinance (Cap. 62), s. 5, sub-s. 3.

If a candidate for admission has read in the Chambers of a practising barrister for 6 months or longer, it is immaterial whether that period of reading takes place before or after his call to the English Bar, for the purpose of s. 5, sub-s. 3 (a) of the Advocates and Solicitors Ordinance.

Case referred to:—

(1) *A. G. v. Lamplough* 3 Ex. D. 214.

PETITION.

J. C. Cobbett for petitioner.

E. R. Koek for Bar Committee.

The facts and arguments appear sufficiently from the judgment.

Cur. adv. vult.

McElwaine, C.J.—The applicant was called to the English Bar on 5th June 1940.

From 1st June 1939 to 31st May 1940 he was a pupil in the chambers of a barrister of more than seven years' standing practising in England.

From 3rd February 1941 the applicant has attended and received instruction in law at the office of an advocate and solicitor of more than seven years' standing in this Colony, and he now (in August 1941) applies to be admitted to the Bar of the Colony.

The only question raised before me is as to whether the application is premature, and the determination of this question depends on the true construction of s. 5 ss. 3 of the Advocates and Solicitors Ordinance.

The policy of the section is to require a candidate for admission to have been a pupil of a barrister or to have read in chambers for at least twelve months, of which at least six months must have been spent in the chambers of a local lawyer of at least seven years' standing.

Sect. 5, sub. s. 3 of the Ordinance so far as material is as follows:—

"Before any order shall be made by the Court on his petition every petitioner shall have attended and received instruction in law in the office in the Colony of a practising advocate for the period hereinafter mentioned, namely:—

(a) If the petitioner is a barrister of England and has previously been a pupil of or read in the chambers of a practising barrister and has

(i) been a pupil or read in chambers as aforesaid for six months or longer

a period of not less than six months; or

(ii) been a pupil or read in chambers as aforesaid for less than six months

such period as together with the period during which the petitioner has read in chambers makes a total of twelve months.

The point shortly is, does the time spent as a pupil or reading in the chambers of an English barrister before the petitioner's call to the English Bar, count?

I think there can be no doubt that the person who is to read in chambers in the Colony is a person who is an English barrister at the time he so reads, and I think that the word "previously" in the phrase "previously been a pupil of a practising barrister" (in England) means previously to his admission in the Colony and that it has no relation to his call to the English Bar. If the latter were the meaning, then the advantage of having read in chambers in England could only be claimed by a person who read in chambers as a law student and not as a qualified barrister.

Mr. Koek has drawn my attention to this section as it stood in the Ordinance as it was passed in 1934, when the words "or has practised his profession" appeared after the mention of reading in chambers, and he suggested that as the petitioner must have been a barrister before he practised his profession so it was intended that he should be a barrister before he read in chambers. If this suggestion is correct the repeal of the words "or has practised his profession" does not alter the meaning of the words which have not been repealed (see *Attorney-General v. Lamplough*[1], per Kelly C. B. at p. 223 and Bramwell L. J. at 227) so "been a pupil or read in the chambers" would continue to apply to a barrister and not to a law student.

But I find some difficulty in applying the *ejusdem generis* rule to these two phrases. What is contemplated is that the petitioner should have some practical experience of the work of his profession, and that experience could be obtained before his call to the Bar, though the experience would probably be more valuable in the case of a fully qualified barrister. The practical experience could, under the Ordinance in its unamended form, be obtained in either of two ways, by reading in chambers or by actual practice, and I see nothing in the section to require me to hold that the pupil who reads in chambers must be already a barrister, though that may be what the draftsman of the section contemplated whether it was his deliberate intention or not.

The word 'pupil' was not inserted in the section to lend support to Mr. Cobbett's interpretation of the clause. That word was introduced to provide for the case of Irish Barristers as it was most unusual, and I think is still unusual, for Irish Barristers to have chambers. The law Library took, and still takes, the place of chambers in Ireland.

I was referred to two other cases in which the petitioners had read in chambers in England before their call to the English Bar and in which this was taken into consideration in allowing six months instruction in the office of a local advocate to suffice. Although the point I have had to consider does not appear to have been raised in those cases, I am not satisfied that what was done in them was wrong, and I therefore hold that the petitioner having read in the chambers of a member of the English Bar for twelve months prior to his call to that Bar, is eligible to be admitted to the Colony Bar after he has received instruction for six months in the office in the Colony of a practising advocate and solicitor of not less than seven years' standing in the Colony, provided he complies with the other provisions of the Ordinance.

Order accordingly.

POH YEE CHOI & ANOTHER v. SHUN FAH & CO.; PAYMASTER, MALAYA COMMAND (GARNISHEE).

[Orig. Civil Juris. (McElwaine, C.J.) Sept. 16, 1941]

Procedure—Garnishee Notice served on officer of His Majesty—Jurisdiction—Rules of Supreme Court Order XLI r. 4 (2)—Courts Ordinance S. 11.

Public moneys in the hands of the Paymaster, Malaya Command, cannot be garnished, Section 11 of the Courts Ordinance gives the Court no jurisdiction to order the attachment of such moneys and Order XLI and Order XLIII cannot be construed as conferring any such power.

Cases referred to:—

(1) *Henley v. Mayor of Lyme* 5 Bing. 107.
(2) *Macbeath v. Haldimand* 1 T.R. 172.
(3) *Palmer v. Hutchinson* 6 A.C. 619.
(4) *Dunn v. Macdonald* (1897) 1 Q.B. 555.
(5) *Frith v. The Queen* 7 Exch. 365.
(6) *Doss v. Secretary of State* 19 Eq. 509.
(7) *Municipal Commission of Sydney v. Bull* (1909) 1 K.B. 7.
(8) *Macleod v. Attorney General of New South Wales* (1891) A.C. 455.

SUMMONS.

Dr. Withers-Payne for applicants.

S. C. Liew for respondents.

The facts and arguments appear sufficiently from the judgment.

Cur. Adv. Vult.

McElwaine, C.J.—The plaintiffs having recovered judgment against the defendants, served a garnishee notice upon the Paymaster, Malaya Command who now applies to have the notice set aside.

The garnishee is an officer of His Majesty holding money the property of His Majesty in right of the Government or of a Department of the Government of the United Kingdom, and I have no doubt that he is a public officer: *Henley v. Mayor of Lyme*[1]. If the garnishee were a public officer of this Colony, money held by him in that capacity could not be attached without the written consent of the Attorney-General or other officer specified in Order XLI., r. 4 (2) of the Rules of the Supreme Court, but the Command Paymaster is not a public officer within the meaning of this Rule.